

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JOSEPH MCDONALD,

Petitioner,

v.

CV 09-0022 MV/LAM

JAMES JANECKA,

Respondent.

**ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL AND LEAVE OF
COURT TO CONDUCT DISCOVERY**

THIS MATTER is before the Court on Petitioner's *Motion for Appointment of Counsel and Leave of Court to Conduct Discovery* (Doc. 8), filed on April 1, 2009. For the reasons set forth below, the Court **FINDS** that the motion is not well-taken and should be **DENIED** at this time.

Factors which the Court weighs when considering a motion for appointment of counsel include “the merits of the litigant’s claims, the nature of the factual issues raised in the claims, the litigant’s ability to present his claims, and the complexity of the legal issues raised by the claims.” *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (quoting *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991)). *See also Hill v. Smithkline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir. 2004). In considering Petitioner’s motion for appointment of counsel, the Court has carefully reviewed the motion, relevant case law, and the pleadings filed in this case in light of the above-referenced factors. Having done so, the Court finds that Petitioner appears to understand the issues in the case and appears to be representing himself in an intelligent and capable manner. In addition, the Court finds that no discovery is necessary at this time.

IT IS THEREFORE ORDERED that Petitioner's *Motion for Appointment of Counsel and Leave of Court to Conduct Discovery* (Doc. 8) is **DENIED** at this time.

IT IS SO ORDERED.



LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE